

IN THE SENATE OF THE UNITED STATES.

MARCH 2, 1860.—Ordered to be printed.

MR. BAYARD submitted the following

REPORT.

*The Committee on the Judiciary, to whom was referred the petition of George G. Barnard, assignee of the Hon. David C. Broderick, deceased, praying the enactment of a law authorizing the payment to him of the amount due said Broderick for salary and mileage at the time of his death, have had the same under consideration, and report:*

The following facts are set forth in the petition as the ground of relief prayed for by the petitioner :

That the petitioner, at the request and for the accommodation of the Hon. David C. Broderick, deceased, late a Senator of the United States for the State of California, on the 16th March, A. D. 1859, indorsed a certain promissory note made by the said David C. Broderick for the sum of \$2,103 17, due and payable December 10, 1859, which was discounted by a bank in the city of New York, and the proceeds received by Mr. Broderick. That the said David C. Broderick, at the time of the endorsement of said note, executed and delivered to the petitioner a certain instrument of writing, assigning and transferring by way of pledge to the petitioner an interest in his salary and mileage due and payable at the commencement of the present session of Congress, as a collateral security, to indemnify and protect the said petitioner from any loss arising in consequence of his said indorsement. That the said promissory note was at its maturity, after the death of Mr. Broderick, protested for non-payment, and has been paid by the petitioner.

It was also stated that Mr. Broderick was unmarried, and that if he left any heirs they reside in California; and it is suggested that it is doubtful whether he did leave any heirs; but the admission is also made, that there are certain persons in California who claim to be such heirs, and that their claim is resisted by the public administrator of the courts of San Francisco. The petition states that it would cause the petitioner great expense, delay, and vexation to pursue his claim against the estate of Mr. Broderick, in California; and that all the property he left is within that State, except what may be due for his compensation as a Senator from March 3, 1859 until his death. The petitioner therefore prays that an act of Congress may be passed

directing the payment to him by the Treasurer of the United States of the amount that was due to Mr. Broderick for his compensation as a Senator to the time of his death.

Under the provisions of the laws, Mr. Broderick was entitled to no mileage, and the amount due to his heirs-at-law for compensation from March 3, 1859, to the day of his death, September 16, 1859, was \$1,619 18.

By the joint resolution approved March 3, 1859, it is provided, "That whenever, hereafter, any person elected a member of the Senate or House of Representatives shall die after the commencement of the Congress to which he shall have been so elected, compensation shall be computed and paid to his widow, or, if no widow survive him, to his heirs-at-law, for the period that shall have elapsed from the commencement of such Congress as aforesaid to the time of his death, at the rate of three thousand dollars per annum."

The committee deem it unnecessary to express any opinion on the question whether the sum due at Mr. Broderick's death is payable to his personal representative, and so liable for his debts, or whether it is to be paid to his heirs-at-law personally, in the event of his leaving no widow. The constitution of the law in this respect is a legal question, which ought to be judicially determined as between creditors and heirs-at-law.

It is, however, so clearly in violation of public policy to permit the accruing compensation of a public officer, which is given for his support and maintenance whilst he holds his office, to be pledged or mortgaged, that, without reference to the relative claims of the heirs-at-law and the creditor claiming under the pledge, the committee are of opinion that the pledge made in this case by Mr. Broderick of his accruing compensation as a Senator ought not to be recognized by Congress as transferring any legal or equitable claim upon the government in favor of the claimant for the specific fund, and therefore recommend that the prayer of the petitioner be denied.